

DE 95-01 - March 17, 1995

**Inactive Voter Registration List
§ 98.065(4) and (5), F.S.**

TO: The Honorable Pam Iorio, Supervisor of Elections, Hillsborough County, County Center, 601 East Kennedy Boulevard, 16th Floor, Tampa, Florida 33602

Prepared by: Division of Elections

This is in response to your request for an advisory opinion regarding the status of inactive voters after January 1, 1995. You are the Hillsborough County Supervisor of Elections, and, pursuant to Section 106.23(2), Florida Statutes, the Division has authority to render this opinion to you.

Essentially, you asked the following:

Whether, on January 1, 1995, supervisors of elections were required to return the names of individuals on their inactive lists to their active voter registration lists?

Your question is answered in the affirmative.

Prior to January 1, 1995, the election code provided voters were required to be placed into an inactive file if they had not voted or updated their registration records in writing during the preceding two years and had not responded within 30 days to a notice mailed by supervisors. § 98.081(1), Fla. Stat. (1993). Further, the election code previously provided that the names of electors temporarily withdrawn from the registration rolls were required to be removed from the rolls if such electors did not respond within three years from the date the last notice was mailed to them. §98.081(2), Fla. Stat. (1993).

On January 1, 1995, changes to the election code became effective which substantially amended the above process concerning "temporarily withdrawn" electors. Currently, Section 98.065(5), Florida Statutes, provides the only method of placing electors into an inactive list. If a supervisor receives change-of-address information on an elector from the United States Postal Service or from signed jury notices which indicates that elector has moved outside of the county or contains no forwarding address, the supervisor must send that elector an address confirmation final notice. § 98.065(4), Fla. Stat. This notice can only be mailed upon receipt of change-of-address information and not simply because an elector did not vote. Supervisors must place all voters into an inactive file who have been mailed an address confirmation final notice and who have not returned the response form within 30 days. §98.065(5), Fla. Stat.

Many voters that were on the inactive list prior to January 1, 1995 were placed there because they did not vote and failed to return the notice. No longer can electors be placed on an inactive list solely for failure to vote. However, if prior to January 1, 1995, supervisors received change-of-address

information on notices mailed to electors before placing them into their inactive files, supervisors may use that change-of-address information as the basis for sending the address confirmation final notice under current law.

Correspondingly, the previous method of removing electors from the inactive list was changed as of January 1, 1995. Current law only provides a mechanism for removing inactive voters who were placed in the inactive file through the address confirmation final notice process provided in Section 98.065, Florida Statutes. See, § 98.065(4)(b), Fla. Stat. Since none of the electors who were in the inactive file prior to January 1, 1995 were placed there through the current address confirmation final notice process, no statutory authority presently exists for removing those inactive electors. Therefore, all electors in the inactive file on January 1, 1995 should be placed back into the active file. Once in the active file, those same individuals could be immediately targeted through the new list maintenance programs in Section 98.065, Florida Statutes, so as to expedite their removal back into the inactive file, if required.

SUMMARY

On January 1, 1995, supervisors of elections were required to return the names of individuals on their pre-existing inactive lists to their active voter registration lists. Supervisors could immediately target those same individuals through their new list maintenance programs to return them to the inactive voter list, if appropriate.